APPENDIX F

UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT MANDATE

At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the United States Courthouse in the City of New York, on the 2nd day of June, one thousand nine hundred and ninety-three.

UNITED STATES COURT OF APPEALS
SECOND CIRCUIT
FILED JUNE 2, 1993
ELAINE B. GOLDSMITH - CLERK

PRESENT: HON. THOMAS. J. MESKILL, Chief Judge
HON. WILFRED FEINBERG,
HON. RALPH K. WINTER,
Circuit Judges.

JOHN S. ROBY; SUSAN B. BOLIN; AMANDA A. BRYAN; ANNE L. BRYAN; FLORENCE E. BRYAN; JOHN M. BRYAN; SUZANNE E. BRYAN; ROBERT S. CLARKE; PATRICK J. COLLINS; DANIEL F. COUGHLIN; ROBERT L. COX; JOHN D. DIVER; ALBERT W. DUGAN; LEE R. ELLENBURG; JULES I. EPSTEIN; TILLMAN R. FESPERMAN; MARTHA H. FOGELMAN; ROBERT F. FOGELMAN; ROBERT S. FORMAN; LEONARD FRIEDMAN; MARVIN GOODSON; ANDREW GROSSMAN; KATHRYN B. HAMPTON; ALTON B. HARRIS; MICHAEL C. HARTLEY; CAROL M. HATHAWAY; JEROME E. HICKEY; ALAN J. HUNKEN; DALE A. JENKINS; ROBERT B. KING; RICHARD J. KISSEL; RAYMOND C. LEE; JANIS L. MacMILLAM; J. STEVEN MARKS; MARY L. MARKS; JAMES L. McCORMICK; NORMAN N. MINTZ; CHARLES E. MORRIS; ALVIN B.

92-9032

MOSS; WILLIAM B. MURRAY; MARGARET W. NICHOL; ROSEMARY H. PASEK; JOSEPH N. PATTISON; CHARLES F. ROBINSON; JOHN N. ROBINSON; JOE R. ROBY; HERBERT A. RUBIN; JACOB A. RUBIN; ROBERT W. RUDER; CONSTANTINE SALONITIS; ARTHUR SCHECHNER; CHARLES SCHNAID; LOUIS B. SCHOEN; K. DINO SIRAKIDES; JOEL M. SPIRO; GILCHRIST B. STOCKTON, JR.; WILLIAM N. STOUT; KENNETH M. TAYLOR; MARVEL WILSON, JR.; HENRI L. WEDELL; CHARLES I. WELLBORN; WILLIAM T. ZANONI; ROGER ANDERSON; CHARLES G. BENTZIN; PETER A. BENZ; THORTON COOKE; DONALD D. DECENSO; MARCO DiLAURENTI; LYDIA P. DUGAN; ROBERT E. EAKIN; KAROLE E. GLASER; OLIVER R. GRACE, SR.; JACK D. GRAY; A. CARY HARRISON, III; SIDNEY KAHN; AUDREY W. KATZ; ROBERT P. KEITH; ALAN W. KRAL; JAMES E. KRAUSE; NANCY KURZ; PAUL W. McMULLAN; HENRY A. MITCHELL, JR.; KATHERINE S. NORDHAUS; CHARLES W. OLSON; JAMES J. O'SULLIVAN, JR.; LIBBY B. POHORYLES; ANTHONY B. SOSKIN; HERMAN G. STURMAN; ALYSON WARNER; EARL D. WHITTEMORE; HERBERT N. ZACK; JOHN H. ABELES; ALBERT B. CRUTCHER, JR.; JAMES S. DEELY; STEPHEN E. DELASZLO; DAVID DOLGENOS; LINDA TUFTS HEBBLER; ROGER W. HOUSE; CHARLES A. JANDA; JEANNE LONG; CHARLES A. MALKEMUS; ANDREW H. MARKS; ALLISON MERCER; MARTHA LONG NAVARRO; GREGORY J. SALKO;

ISSUED AS MANDATE
6-28-93

APPENDIX G

APPENDIX C

District Court Opinion in *Leslie v. Lloyd's,*

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CHARLES ROBERT LESLIE	§	
	§	
Plaintiff,	§	
	§	
VS.	§	C.A. NO. H-90-1907
	§	
LLOYD'S OF LONDON, a/k/a	§	
LLOYD'S, a/k/a THE	§	
CORPORATION OF LLOYD'S,	§	
a/k/a THE COMMITTEE OF	§	
LLOYD'S, a/k/a THE	§	
SOCIETY OF LLOYD'S and	§	
R.W. STURGE & CO., a/k/a	§	
R.W. STURGE LTD.,	§	
	§	
Defendants.	§	

MEMORANDUM AND ORDER

This 4th day of September, 1991, the defendants' objections filed by Lloyd's of London and R.W. Sturge, came on for ruling by the Court. The Court has reviewed Magistrate Stacy's rulings on the pending Motion to Dismiss. After a thorough review of the motions responses of Lloyd's and R.W. Sturge and the rulings of the magistrate, this Court finds that the Magistrate's ruling is appropriate and should be affirmed.

STANDARD OF REVIEW

The matters to which the Defendant has objected were referred to Magistrate Frances H. Stacy pursuant to the Magistrate's Act contained in Title 28 § 631, *et seq*. Specific authority for this type of referral is granted by Title 28 §636(b)(1)(A). Rule 82 of the Fed.R.Civ.P. as amended in 1983 governs the conduct of review of objections to Magistrate's Rulings. Federal Rules of Civil Procedure 72(a) requires the Court to "modify or set aside any portion of the Magistrate's Order found to be *clearly erroneous or contrary to law*." The rule and the Magistrate's Act clearly contemplate the District Court granting great deference to the Magistrate's actions as long as the Magistrate's decision is not "clearly erroneous or contrary to law." Although the Act provides for a de novo review by the District Judge, the threshold requirement on any party raising objections to a Magistrate's rulings is to point out specifically where the Magistrate's decision is either clearly erroneous on the facts or contrary to law on the basis of existing case law. This Court is firmly committed to the concept that:

> "Defendants bear a heavy burden. The court may reconsider discovery matters referred to a Magistrate pursuant to Sections 636(b)(1)(A) of Title 28, if the Magistrate's rulings are 'clearly erroneous or contrary to law.' Moreover, in resolving discovery disputes, the Magistrate is afforded broad discretion, which will be overruled only if abused."

City Corp. v. InterBank Card Association, 478 F.Supp. 756, 765 (S.D.N.Y. 1979).

ANALYSIS

The defendant filed nineteen objections focusing on the alleged representations by Sturge in the United States as to their relationship with Lloyds and the workings of the insurance syndication's process in England. Sturge's alleged representations in the United States were sufficient to constitute a violation of

Security and Exchange Rule 10(b)(5). The federal courts have nearly unanimously held that 10(b)(5) violations occurring in the United States are sufficient basis for federal court jurisdiction.

Furthermore, Sturge's alleged representations when combined with Lloyds' conduct which could be construed as affirming or adopting Sturge's apparent agency relationship with Lloyd's, raise the possibility of the imposition on Lloyd's of liability for Sturge's conduct. The Magistrates recommendation of denial of the motion to dismiss is appropriate.

This Court therefore finds that the Magistrates recommendations are well founded in State and Federal law, and the Magistrate's ruling should be and hereby is AFFIRMED.

The clerk shall enter this order and furnish a copy to all parties.

Signed this 4th day of September, 1991 at Houston, Texas.

JOHN D. RAINEY
UNITED STATES DISTRICT JUDGE